

The State of New Hampshire
Department of Environmental Services



Michael P. Nolin
Commissioner

Harris Shore Association
c/o Charles P. McKenna, President
9 Crabapple Lane
Chelmsford, MA 01824

File #03-2091
Harris Shore Road, Gilford, NH

ADMINISTRATIVE ORDER
No. WD 04-024

A. INTRODUCTION

This Administrative Order is issued to the Harris Shore Association by the Department of Environmental Services, Water Division pursuant to RSA 482-A:6. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, NH 03301.
2. The Harris Shore Association is a non-profit corporation organized to administer Harris Shore Condominium located on Harris Shore Road in Gilford, NH 03246. The association is limited to and comprised of all Harris Shore Condominium unit owners.

C. STATEMENTS OF FACT AND LAW

1. Pursuant to RSA 482-A, the Department of Environmental Services ("DES") regulates dredging, filling, and construction in or on any bank, flat, marsh, wetland or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11,I, the Commissioner of DES has adopted Wt 100 *et seq.* to implement this program.
2. Harris Shore Association is the owner of waterfront property with 55 feet of frontage along Lake Winnepesaukee on Harris Shore Road, Gilford, NH, more particularly described as Tax Map 223, Lot 404 on the Gilford Tax Maps, and as shown as Parcel A in the Harris Shore Condominium Declaration recorded at the Belknap County Registry of Deeds at Book 812, Pages 23- 53 with lake frontage of 55 feet on Lake Winnepesaukee ("the Property").
3. The Property is part of the Harris Shore Condominium and is managed by the Harris Shore Association as established in the "Declaration of Condominium for Harris Shore, a Condominium", recorded at the Belknap Registry of Deeds at Book 812 Pages 23 - 53.
4. On September 15, 2003, DES received a complaint citing two alleged violations: "a) dock constructed and lengthened to 180 ft. x 4 ft. with no permit and b) also constructed 12 ft. platform for chairs in middle of 180 foot x 4 foot dock". This entire structure hereinafter will be referred to as "the Dock".

5. On September 29, 2003, DES sent a letter to Janice Coy, former President of the Harris Shore Association, enclosing a Certification for Grandfathered Shoreline Structures form for her review and signature verifying the dock qualifies as a grandfathered structure.

6. On November 18, 2003, DES received a letter from Ms. Coy which enclosed the following documents:

- a) an aerial photograph dated May 1, 1964;
- b) an aerial photograph dated August 1, 1981;
- c) a snapshot photograph taken 1985;
- d) a snapshot photograph taken 1988;
- e) a real estate appraisal of a Harris Shore condominium cottage from 1998; and
- f) three additional undated photos.
- g) a signed Certification for Grandfathered Shoreline Structures by Ms. Coy.

7. Review of the aerial photographs reveals the following:

- a) On the 1964 aerial, the Dock measures approximately 42 feet in length;
- b) On the 1981 aerial, the Dock measures approximately 80 feet in length;
- c) On the 1981 aerial, the adjacent Lien dock measures approximately 130 feet in length;

8. Review of the ground and aerial photos show that the Dock previously had a widened platform located near the shore and that the 12' x 25' wide platform was relocated approximately 30 feet from the end of the 178 foot dock.

9. On November 21, 2003, DES sent a letter to Ms. Coy informing her of the closing of the enforcement file regarding the Property due to the absence of a violation as proven by: 1) the signing and submittal of the Grandfathered certification form; and 2) photos submitted by Ms. Coy demonstrating the Dock was lengthened sometime in the early seventies, before DES had jurisdiction over seasonal docks.

10. On November 25, 2003, DES received a letter from the complainant requesting review of the photograph dated November 1985. The letter states: "the picture clearly shows a 93 foot dock which has since been extended to 180 feet between 1997 and 2003."

11. On December 3, 2003, DES sent a letter to Ms. Coy notifying her that further information recently received indicated that the Dock, though existing since the 1950's, has been extended since DES took jurisdiction over seasonal docks. Based on review of the information in the file, DES notified Ms. Coy that the dock must conform to its grandfathered length of 80 feet unless further evidence submitted proves otherwise.

12. On August 10, 2004, DES personnel met with representatives of the Harris Shore Association: Jim Coy, Charles McKenna, Brent Connolly, John Bartlett, Andrew Bartlett, and Dick Walsh. At this meeting DES received two black and white enlarged photographs of the Dock dated 1964 or 1965.

13. The 1964/1965 black and white photographs show that the Dock measured approximately 130 feet.

14. On August 11, 2004, DES sent Janice Coy a follow up letter to the meeting held on August 10, 2004 summarizing additional analysis of aerial photographs from the Wetlands Bureau archives as follows:

- a) A June 14, 1970 aerial photograph shows that the Dock measured approximately 130 feet.
- b) A June 14, 1970 aerial photograph shows that the Dock measured approximately 130 feet.
- c) A May 1974 aerial photograph shows that the Dock measured approximately 130 feet.
- d) A May 1986 aerial photograph shows that the Dock measured approximately 100 feet.

15. The August 11, 2004 letter imposed a deadline of August 31, 2004 for submittal of any additional historic information regarding the Dock.

16. On August 20, 2004, DES inspected the Property and found that the Dock measured a total of approximately 178 feet in length, 19 of the sections were approximately 4 feet in width and 3 of the sections measuring 12 feet in width.

D. DETERMINATIONS OF VIOLATIONS

1. Harris Shore Association violated RSA 482-A:3, I, by expanding the Dock lakeward beyond its historic 130 foot length on Lake Winnepesaukee without a permit from DES.

E. ORDER

Based on the above findings, DES hereby orders Harris Shore Association as follows:

- 1. By December 1, 2004, permanently remove those lakeward portions of the Dock that are in excess of 4 ft x 130 ft.
- 2. This removal will require the elimination of the 12' x 25' deck and reduction of the widened deck and reduction of the lakeward end of the Dock in excess of 130 ft from the high water elevation at the shore.
- 3. By December 5, 2004, photographs and a letter documenting the completion of actions listed in E.1 (above) shall be submitted to DES.
- 4. Correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, shall be addressed to DES as follows:

Mary Ann Tilton, Compliance Supervisor
DES Wetlands Bureau
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095
Fax: (603) 271-6588
email: mtilton@des.state.nh.us

F. APPEAL

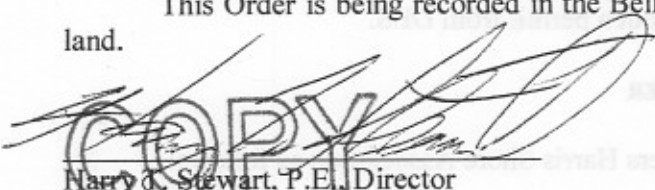
Any party aggrieved by this Order may apply to the DES Wetlands Bureau for reconsideration with respect to those determinations within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if in its opinion, good reason is provided in the motion.

Filing an appeal or motion for reconsideration of the Order does not automatically relieve of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 482-A provide for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Harris Shore Association's remain obligated to comply with all applicable requirements, in particular removal of the dock as required by the Order. DES will continue to monitor Harris Shore Association's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Belknap County Registry of Deeds so as to run with the land.


Harry T. Stewart, P.E., Director
Water Division


Michael P. Nolin, Commissioner

Certified Mail/RRR: 7000 0600 0023 9936 2175

cc: Gretchen R. Hamel, Administrator, DES Legal Unit ✓
Public Information Officer, DES Public Information Center
Jennifer Patterson, Senior Asst. Attorney General, EPB, NHDOJ
Belknap County Registry of Deeds
Gilford Selectmen
Gilford Conservation Commission
William N. & Norma Lavoie, Harris Shore Association
Donna Quinn Powers and Nancy Amrich, Harris Shore Association
Iasiello Family Trust, Harris Shore Association
Richard W. & Susan M. Walsh, Harris Shore Association
Brent and Barbara J. Connolly, Harris Shore Association
Judith M. Hart, Harris Shore Association
Barbara L. Baker Trustee, Harris Shore Association
Charles P. and Christin McKenna, Harris Shore Association
James & Janis Coy, Harris Shore Association
AMB COURT, LLC, Harris Shore Association
Mark Langevin, Lakes- Realty, LLC
File #2003-02091